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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,210	02/27/2004	Jean-Francois Gonthier	P24979	4694

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,210

Applicant(s)

GONTHIER, JEAN-FRANCOIS

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-16 and 18-21 is/are allowed.
- 6) ☒ Claim(s) 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/27/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☒ Certified copies of the priority documents have been received in Application No. 09/835,638.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's submittal of an amendment was received on March 31, 2005, wherein claims 1, 14, 18 and 19 were amended, claims 2 and 17 were cancelled and new claims 21-24 were added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Reuss (US Patent 6,250,651 B1).** Reuss discloses a binding (70) to retain a boot (75) on a gliding or rolling apparatus (74), said binding comprising a base (See Figs. 7-8) for supporting the boot, said base including an upper surface extending along a plane; a first lateral flange (72), a second lateral flange transversely spaced from said first lateral flange (See Fig. 8), said first and second lateral flanges extending upwardly relative to said surface of the base, a front linkage and a rear linkage, each of said front and rear linkages extending from said first lateral flange to said second lateral flange (See Fig. 7); at least one of said front and rear linkages comprising a first band (26) extending from a fastening end to a free end, a first fastener attaching said fastening end of said first band to said first lateral flange, a second band (42) extending from a fastening

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end to a free end, a second fastener attaching said fastening end of said second band to said second lateral flange; a tightening device (24) attached to said second band, said tightening device facilitating an adjustment of a length of said linkage between said first and second lateral flanges by engagement with an abutment of said first band as said first band is superimposed with a portion of said second band (See Figs. 5-6); at least one of said front and rear linkages being movable relative to said first and second lateral flanges forwardly from a boot retention position to a boot removal/insertion portion, while said abutment is engaged by said tightening device, said one of said front and rear linkages being unrestrained by said base in said boot removal/insertion position (As shown in Figure 8, the base does not restrain any part of the linkage, the linkage is restrained by its interaction with the lateral flanges); **[claim 23]** wherein said abutment of said first band comprises one of a series of said first band; said tightening device comprises a pawl selectively manipulable into and out of abutting engagement with a tooth of said series of teeth of said first band (See Fig. 5).

Allowable Subject Matter

4. Claims 1, 3-16 and 18-21 are allowed over the prior art.
5. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments, see Remarks, filed March 31, 2005, with respect to claims 1, 3-16 and 18-20 have been fully considered and are persuasive. The rejection of claims 1, 3-16 and 18-20 has been withdrawn. Examiner agrees with Applicant in regards to claims 1 and 19, that the incorporation of the limitation "said at least one linkage of said at least one linkage being movable to a boot removal/insertion position extending along a plane positioned at substantially 0° relative to said plane of the upper surface of said base" defines the present invention of the prior art, specifically Reuss '651.

Additionally, Examiner agrees with Applicant regarding claim 18, that there would not be any motivation to modify Reuss '651 with the teaching of Bumgarner '895. Reuss already includes a fastener that prevents the free end of the first band from passing through the tightening device, therefore, an additional mechanism (Bumgarner's fastener) would not be needed.

7. Applicant's arguments filed March 31, 2005 have been fully considered but they are not persuasive. In regards to claim 22, Examiner does not agree with Applicant's statement regarding the linkage being restrained by the base in Reuss. As set above, Examiner maintains that the linkage is in one way restrained by the base in Reuss, but instead moves relative to the lateral flanges.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (571) 272-6698. The examiner can normally be reached on Monday, Wednesday and Thursday 5:30 am-5:00 pm and Tuesday 5:30 am-11:00 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (571) 272-6914. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

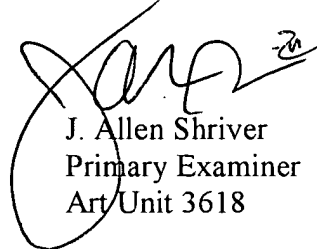
As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to: (703) 872-9306 (for formal communications intended for entry). (571) 273-6698 (for informal communications directly to the Examiner).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Allen Shriver
Primary Examiner
Art Unit 3618

JAS